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In re Application of :
Igor Stojiljkovic et al :
Application No. 09/665,358 :
Filed: September 19, 2000 :
Attorney Docket No. 94-784-L :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 2005, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

The above-identified application was held abandoned for failure to reply in a timely manner to an Office communication mailed July 6, 2004, which set a period for reply of one (1) month or thirty (30) days (whichever is later).

A review of the official file record discloses that an Office communication was mailed on July 6, 2004, setting a one (1) month or thirty (30) days **nonstatutory** period for reply. A reply was due on or before August 6, 2004. However, as 37 CFR 1.136(a) provides that an applicant may extend the time period for reply up to five months after the time period set for reply and since the period set in the Office communication of July 6, 2004, is a **nonstatutory** period, extensions of time up to and including January 6, 2005 were available.¹ Therefore, since this case was not in fact abandoned at the time of filing the instant petition, the petition was prematurely filed and is dismissed as involving a moot issue.

In view of the above and as authorized, the appropriate five month extension of time fee of \$1,080 will be charged to Deposit Account No. 13-2490. Since this application was not abandoned at the time of filing of the petition to revive, as explained above, the \$750 fee assessed to the instant petition is unnecessary and will be credited to the above-noted deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1647.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ See MPEP 714.03 (Rev. 1. Feb. 2003)